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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,011	09/12/2003	Michael A. Wisniewski	061151-9008-00	6806
23409	7590	07/05/2005	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			RIDLEY, RICHARD	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/661,011

Applicant(s)

WISNIEWSKI, MICHAEL A.

Examiner

Richard Ridley

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-8, 10-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-8, 10-20 and 24-30 is/are rejected.
- 7) ☒ Claim(s) 21-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Is the transfer mechanism of claim 19 additional to the transfer mechanism recited in claim 10, or are there two different transfer mechanisms? As written the claim is unclear.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 3, 4, 5, 6, 7, 8, 10, 13, 18, 19, 20, 24, 25, 26, 27, 28, 29, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemaire et al. USP 4,852,745 in view of Leof USP 1,667,483.

Lemaire discloses a similar device comprising a(n):

- At least one transfer mechanism (11)

➤ Conveyor (2)

Re clm 10, Lemaire does not disclose a first and second rotatable members.

Leof teaches the use of a first and second rotatable members (146, 148) for the purpose of providing for a means to facilitate the feeding of individual cups from a stack (page 8, lines 37-500.

It would have been obvious to one having ordinary skill in the art at the time of the invention to have employed the use of a first and second rotatable members, as taught by Lemaire, in the device of Leof for the purpose of providing for means to facilitate the feeding of individual cups from a stack.

Re clm 26, loef discloses a shroud (fig. 3) for the purpose of providing for a means to house the rotatable members. It would have been obvious to one having ordinary skill in the art at the time of the invention to have employed the use of a shroud, as taught by Leof, in the device of lemaire for the purpose of providing for a means to house the rotatable members.

5. Claims 14, 15, 16, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemaire et al. USP 4,852,745 in view of Leof USP 1,667,483.

Lemaire discloses all of the claim limitations, as above.

Re clm 14 & 15, to have employed the use of a gearbox in Lemaire would have been obvious to one have ordinary skill in the art as per the function of a gearbox which would allow and provide a means for controlling the rotation of the first and second rotatable members to a predetermined speed.

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Re clms 16, 17, to have employed the use of two motors, instead of one, in Leof, would have been obvious to one having ordinary skill in the art at the time of the invention since the applicant has not disclosed that the use of two motors instead of one is for any particular purpose or solves any particular problem and it would appear that the invention for perform equally well with the use of two motors.

6. Claims 11, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemaire et al. USP 4,852,745 in view of Leof USP 1,667,483 and further in view of Barnes USP 6623236.

Lemaire discloses all of the claim limitations, as above, but does not disclose at least one suction device coupled to the transfer mechanism.

Barnes teaches the use of at least one suction device coupled to a transfer mechanism for the purpose of facilitating the de-nesting of nested/stacked articles (at least abstract).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have employed the use of a suction device coupled to a transfer mechanism, as taught by Barnes, in the device of Leof for the purpose of facilitating the de-nesting of nested/stacked articles.

Allowable Subject Matter

7. Claims 21-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

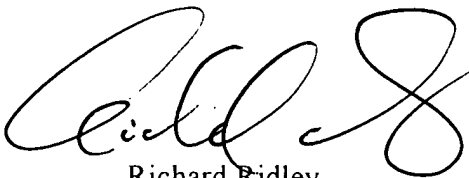
Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Ridley whose telephone number is (571) 272-6917. The examiner can normally be reached on Mon-Fri 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard Ridley
30 June 2005

Richard Ridley
Primary Examiner
Art Unit 3651